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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

-----X
DWAIN EDWARD THOMAS,

Plaintiff,

VS. Case No. CIV-20-944-D

KEVIN STITT, et al.,

Defendants.
-----X

REMOTE VIDEOTAPED DEPOSITION
OF

THOMAS BATES
Friday, May 31, 2024

Reported by:
AYLETTE GONZALEZ, RPR, CLR, CCR
JOB NO. 2024-942753



1 THOMAS BATES (5/31/2024)

2 parole process?

3 A. In the parole process for
4 violent offenses, the governor reviews the
5 recommendations of the board and then makes
6 the final determination. If -- yeah,
7 that's the governor's role.

8 Q. So the governor's role is
9 limited to violent offenders?

10 A. Yes.

11 Q. When PPB communicates the
12 recommendations, what method are they
13 communicated in? Is it an electronic
14 system? Are they mailed? Is there an
15 email that gets sent out? How are they
16 communicated?

17 A. Yeah. I mean all those results
18 are, you know, at the conclusion of every
19 meeting sent, sent over via -- via email to
20 representatives within the -- to folks on
21 the governor's staff and with all the
22 supporting documentation, things like that,
23 and they review it.

24 Q. When you say that supporting
25 documentation is sent along with the

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1 THOMAS BATES (5/31/2024)
2 recommendation, does that include every --
3 is it a fulsome set of all of the
4 documentation that the Pardon and Parole
5 Board itself reviewed in making the
6 recommendation?

7 A. Yeah, it's the support letters.
8 It's the -- it's any letters, any letters
9 objecting to the parole, any letters
10 supporting the parole, whether they be from
11 members of the community, the district
12 attorney, or the victims.

13 Q. Does the report that's prepared
14 for the board members' consideration get
15 sent to the governor's office?

16 A. You know, I'd have to -- I'd
17 have to double-check that. I don't -- I
18 mean I can find that out. I mean, this is
19 -- this is a -- I'm going to say this
20 process is a little -- you know, there are
21 -- there are a lot of details in the
22 mechanics of this that I don't -- I'm not
23 going to say that I -- you know, that I
24 rely on our staff to handle. And so our
25 general counsel is on.

1 THOMAS BATES (5/31/2024)

2 uploaded to the file?

3 A. Yes, but I mean things occur.

4 I mean, we -- we have rules and policies,

5 but we try not to be rigid in the

6 enforcement of those policies, especially

7 when we're dealing with members of the

8 public. People that want to, we -- you

9 know, we accept support letters and

10 objection letters after the deadline and we

11 forward those on to -- to the board

12 members.

13 Q. So even if those letters arrive

14 after the posted deadline, is the set of

15 materials that PPB is reviewing in order to

16 vote complete once those have been added in

17 regardless of when that time is?

18 A. Yes.

19 Q. Okay. And that set of

20 materials includes information that is

21 compiled by PPB and given to the voting

22 members; is that right?

23 A. Yes.

24 Q. And what type of information is

25 included in the materials given to PPB

1 THOMAS BATES (5/31/2024)

2 voting members?

3 A. So again that would include the
4 report prepared by the PPB investigator,
5 any letters or other written materials
6 supporting the offender and any objections
7 to -- is it fair to say we're talking just
8 about parole here?

9 Q. Correct, yes.

10 A. We're talking just about
11 parole?

12 Q. Yes. We can limit this to
13 parole.

14 A. Okay. So any -- so it's the
15 report, any letters supporting the parole,
16 any letters objecting or other written
17 materials objecting to the parole, and
18 those typically -- the letters of objection
19 typically come from victims and district
20 attorneys.

21 Q. Besides the report prepared by
22 the PPB investigator, any letters of
23 support submitted or any letters or written
24 materials with objections, is there
25 anything else that's provided to the PPB

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2 A. Yes.

3 MS. McCLURE: Okay. You can
4 take this down, please, Josh.

5 Q. So from the beginning of the
6 process, you mentioned that the inmate
7 becomes eligible for parole based on
8 statute, right?

9 A. Right.

10 Q. And the date that any inmate
11 would be eligible to be considered is
12 calculated when they're processed into DOC?

13 A. Yes.

14 Q. When an inmate comes up for
15 their parole consideration date, how is the
16 inmate informed of what that date is?

17 A. I don't know. The -- I mean I
18 would have to -- some of that is going to
19 be a little bit of a function of DOC and
20 the communication with the case manager,
21 but you know, our investigators also reach
22 out to offenders and say you're on the
23 docket, you're on an upcoming document and,
24 you know, here's a questionnaire to fill
25 out and we would -- I would, you know,

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1 THOMAS BATES (5/31/2024)
2 given an opportunity to sit with the parole
3 investigator and ask questions about their
4 plans upon release and things like that,
5 programs that they've completed, just a
6 number of all -- account of -- confirm the
7 account of the offense and things like
8 that.

9 Q. So your understanding is DOC
10 communicates with the inmate that they will
11 be up for parole and then a parole
12 investigator who is a PPB investigator will
13 contact the inmate about their upcoming
14 parole consideration date?

15 A. Yes.

16 Q. The parole investigator --
17 parole investigators are PPB employees; is
18 that right?

19 A. Yes.

20 Q. Approximately how many parole
21 investigators does PPB have?

22 A. Twelve.

23 Q. And the parole investigator is
24 responsible for interviewing the inmate in
25 advance of a parole hearing and drafting an

1 THOMAS BATES (5/31/2024)

2 investigative report?

3 A. Yes.

4 Q. Are there any other
5 responsibilities that the PPB investigator
6 has in the parole process?

7 A. The investigators as I -- as I
8 mentioned earlier are also responsible for
9 conducting that initial docketing of folks
10 that come in and then reviewing and
11 confirming eligibility throughout the
12 process.

13 Q. So the parole investigator
14 interviews inmates before the parole
15 hearing, drafts an investigative report for
16 PPB members to review, and conducts the
17 initial docketing of an inmate's
18 consideration, date when they enter DOC as
19 well as reviews and confirms their
20 eligibility for parole?

21 A. Yes.

22 Q. Any other functions of PPB
23 investigators that I've not mentioned?

24 A. I think that -- I think that
25 captures it.

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1 THOMAS BATES (5/31/2024)

2 Q. Okay. Do PPB voting members
3 speak directly with parole investigators?

4 A. Typically any communications
5 that the board members may have about a
6 report is done through the -- through our
7 field director.

8 Q. And so if a PPB voting member
9 had a question about an investigator report
10 that a parole investigator drafted, they
11 would direct that question to the field
12 director?

13 A. Yes.

14 Q. And that field director would
15 act as a go-between the PPB and board
16 member?

17 A. He might be able to answer the
18 question himself. It may be a question
19 about -- I don't know. It can just be a
20 question about what something means or, you
21 know, some -- some -- again, some lingo or
22 jargon. But it also -- yeah, I mean if
23 it's a -- typically if it's a request to
24 clarify something, yeah, Leroy Long, our
25 field director, is going to kind of act as

1 THOMAS BATES (5/31/2024)

2 the liaison to the investigator.

3 Q. You said typically, are there
4 instances when a PPB voting member might
5 reach out directly to the parole
6 investigator who drafted a report?

7 A. You know, I can't say -- you
8 know, I can't speak to in terms of always
9 and never. I can't say that it never ever
10 happens, but I'm not aware, I can't think
11 of any instance off the top of my head
12 right now where a board member has reached
13 out to an investigator directly, that I'm
14 aware of.

15 Q. How are parole investigators
16 assigned cases? Do they follow the same
17 case throughout that inmate's time in DOC?

18 A. Typically, investigators are
19 assigned to facilities, so they handle all
20 of the cases that are in a facility, and if
21 that individual transfers facilities, then
22 it's going to, you know, transfer to
23 another investigator.

24 Q. Is there -- how many parole
25 investigators are assigned to a given

1 THOMAS BATES (5/31/2024)

2 facility?

3 A. You know, it varies. You know,
4 some -- some have one depending on the size
5 of the facility, some have two. And you
6 know, that's something if you want to
7 request who's -- who's assigned to what
8 facilities, I mean that's information that
9 we can get to you.

10 Q. How do assigned inmates
11 communicate with parole investigators?

12 A. Well, I mean, again, the case
13 -- it's my understanding that the case --
14 that the parole investigators communicate
15 with the case managers at the facilities
16 and they convey, hey, this individual wants
17 to speak with you or sometimes this
18 individual doesn't want to speak with you
19 and that's -- that's how it gets conveyed.

20 Q. Is there a process by which
21 inmates can affirmatively reach out to PPB
22 investigators?

23 A. Yeah. I mean, they can reach
24 out to us in writing and say they'd like to
25 speak to an investigator, but also they

1 THOMAS BATES (5/31/2024)
2 can, you know, get the word through their
3 case manager, but yes, they can communicate
4 in writing with -- with PPB.

5 MS. McCLURE: Could we please
6 pull up tab six, which I will mark as
7 Plaintiff's Exhibit 5. And for the
8 record, this is a document Bates
9 stamped 56. It was produced in
10 defendants' production.

11 (Plaintiff's Exhibit 5,
12 document entitled Request to Parole
13 Investigator, Bates 56 was marked for
14 identification, as of this date.)

15 BY MS. McCLURE:

16 Q. Mr. Bates, is this a blank
17 form, Oklahoma Pardon and Parole Board
18 Request to Parole Investigator?

19 A. That's what it says, yes.

20 Q. Do you recognize this?

21 A. It looks familiar. I mean I
22 can't say I've looked at this form
23 recently.

24 Q. Do you know if this form is the
25 method by which the inmates kind of reach

1 THOMAS BATES (5/31/2024)

2 out in writing to the PPB investigator?

3 A. I mean it appears to be, yes,
4 that, but I mean we also get just written
5 correspondence from inmates as well that --
6 you know, that we process, and so yes, that
7 form is -- is one method, yes.

8 Q. Okay.

9 MS. McCLURE: So, Josh, if you
10 could just zoom back out. Thank you.

11 Q. So this form includes
12 information about the inmate name, DOC
13 number, facility, date, and then asks the
14 inmate to check the parole-related issue
15 about which you have a question. Keep in
16 mind parole investigators do not schedule
17 time to meet with inmates for any purpose
18 other than interviews for a scheduled
19 parole docket; do you see that?

20 A. Yes.

21 Q. And the four issues that are
22 listed as options are parole docket
23 date/appeal of parole docket date, waiver
24 of parole, personal appearance/jacket
25 review for parole consideration, and

1 THOMAS BATES (5/31/2024)

2 interview for scheduled parole docket?

3 A. Yes.

4 Q. So when using this form, the
5 inmate cannot ask a question unrelated to
6 any of these four topics?

7 A. Correct.

8 Q. But they could separately write
9 to the PPB investigator without using this
10 form?

11 A. Yeah, I mean, like I said, we
12 receive correspondence from inmates, maybe
13 even not directed to the investigator. It
14 would ultimately probably more than likely
15 depending on the question, get routed to
16 the investigator, but that -- that form is
17 to conduct communications around those
18 topics that -- that are listed there.

19 Q. So when you say you received
20 communications from inmates, you're talking
21 about PPB more broadly and not the PPB
22 investigator?

23 A. Yes.

24 Q. Okay. So then is it your
25 understanding that this particular form is

1 THOMAS BATES (5/31/2024)
2 the only avenue that inmates have to
3 directly communicate with the PPB
4 investigator?

5 A. Again, I'm not -- I don't know
6 that I -- I don't know that I feel
7 comfortable saying only. I'm not -- I'm
8 not in the field with, you know -- if -- if
9 a -- if an inmate wanted to speak with a
10 parole investigator and communicated that
11 desire to their case manager, you know, how
12 those type of requests get handled, I would
13 have to defer that to a field director.

14 Q. And you said that that is
15 Leroy --

16 A. Long.

17 Q. -- Long, is that his last name?

18 A. Yes.

19 Q. Do you know why this form is
20 limited to these four topics?

21 A. Can we zoom it out. I mean I
22 would expect it's just -- it's a matter of
23 efficiency and time. I mean, you know,
24 our -- our investigators have a pretty
25 heavy caseload with a -- in a finite amount

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pull up tab seven, which I will mark
as Plaintiff's Exhibit 6. And for
the record, this has been produced
via Bates stamped 58 in defendants'
production.

(Plaintiff's Exhibit 6,
document entitled Parole Interview
Questionnaire, Bates 0058 through
0064 was marked for identification,
as of this date.)

BY MS. McCLURE:

Q. Mr. Bates, do you recognize
this document, the Oklahoma Pardon and
Parole Board, Parole Interview
Questionnaire?

A. Yes.

Q. And does this look to be an
accurate copy of the questionnaire that is
used in lieu of an in-person interview?

A. Yes.

Q. At the bottom of the first
page, it says, "Revised 12/2023"?

A. Yes.

Q. How often is this questionnaire

1 THOMAS BATES (5/31/2024)

2 form updated?

3 A. I don't know. I would have
4 to -- I can't tell you how many times it's
5 been updated.

6 Q. Okay. Are you aware of any
7 specific changes that would have been made
8 from the version prior to December of 2023
9 and this version?

10 A. Again, that's something I'd
11 have to go back and review.

12 Q. If the PPB investigator uses
13 this questionnaire instead of conducting an
14 in-person interview, how are inmates
15 notified that an in-person interview will
16 not be conducted?

17 A. Again, the exact mechanics of
18 that communication, I would have to -- I
19 would expect, although I can't say
20 categorically, that there's a communication
21 to the case manager at the facility that --
22 that this questionnaire -- that the
23 investigator is asking this questionnaire
24 to be filled out.

25 Q. Are the questions included in

1 THOMAS BATES (5/31/2024)
2 the questionnaire the same questions the
3 PPB investigator would ask if they were
4 conducting an in-person interview?

5 A. Well, can we scroll down
6 through the document here?

7 Q. Yeah, absolutely.

8 A. So do I have control of this
9 document now or -- I'm having some issues
10 scrolling through it. So there it goes.

11 It appears to have the areas of
12 inquiry that are in the reports, yes.

13 Q. So if we could look at some of
14 those, if we look at page 2, this has the
15 heading -- let me get to page 2. Page 2
16 says, "Version of Offense(s). Tell your
17 version of the controlling case and active
18 CC cases (if any)."

19 This section allows the inmate
20 an opportunity to describe their version of
21 the underlying offense, right?

22 A. Yes.

23 Q. Is this section of the form
24 mandatory for inmates to complete?

25 A. I mean none of this is

1 THOMAS BATES (5/31/2024)
2 mandatory. I mean we can't -- we can't
3 make an offender fill out the
4 questionnaire, participate in an interview,
5 give their version of the offense. I mean
6 there is -- there is -- we can't compel
7 them to do any of that.

8 Q. If this section of the
9 questionnaire is blank, how does that
10 change the information that goes into the
11 PPB investigator's report?

12 A. Well, I mean I think the report
13 would just state the offender chose not to
14 participate.

15 Q. Are inmates permitted to have
16 assistance in completing this
17 questionnaire?

18 A. I mean they can request, yeah.
19 They could ask for assistance, yes, I mean.

20 Q. So they could have counsel
21 assist in filling this out?

22 A. Yes.

23 Q. Could they ask for their case
24 manager's assistance in filling this out?

25 A. I would think so, but I'm --

1 THOMAS BATES (5/31/2024)
2 again, I'm not going to testify about DOC's
3 practice with their -- with their staff on
4 these.

5 Q. If we go to the third page,
6 there's a section on substance abuse
7 history or usage and treatment history,
8 which asks the inmate to fill out whether
9 they have used any of the listed substances
10 or completed treatment regarding substance
11 abuse while incarcerated?

12 A. Yes.

13 Q. If this section of the
14 questionnaire is left blank, would PPB
15 state in their investigative report that
16 they do not have sufficient information on
17 this topic?

18 A. Yeah. I mean I think anything
19 that relies on the offender's participation
20 or their account of their substance abuse
21 or history usage, it would -- it would say
22 that. It would say that the offender did
23 not -- you know, declined to provide that
24 information.

25 Q. If we could look at page 4, at

1 THOMAS BATES (5/31/2024)
2 the bottom of that page, there's a section
3 on programs that asks the inmate to list
4 all programs completed during current
5 incarceration, including completion dates.
6 Do you see that?

7 A. Yes.

8 Q. And there are four lines
9 allowing the inmate to fill in completion
10 dates. If an inmate needed additional room
11 to list all programs completed, are they
12 permitted to attach addenda or otherwise
13 further explain elsewhere in this
14 questionnaire?

15 A. Of course.

16 Q. What definition is PPB
17 ascribing to programs when it asks the
18 inmate to list all programs completed?

19 A. Well, I mean I think they can
20 -- they can include any -- any program or
21 study correspondence course that they have
22 completed while incarcerated, keeping in
23 mind that there are programs that are DOC
24 certified and sanctioned and other programs
25 that other -- other providers may come in

1 THOMAS BATES (5/31/2024)
2 and provide, you know, different church
3 groups and things like that, that they may
4 list, but because they're lacking a
5 certification, they may not result in any
6 kind of a -- of additional credits or
7 anything like that. But they can list
8 anything that they've done that they think
9 you know, betters themselves.

10 Q. Are DOC sanctioned programs
11 given more weight than the programs with
12 the other organizations that you mentioned?

13 A. I'm not going to say that
14 because that gets into the -- you can talk
15 about weight, that is going to get into the
16 board members' own specific perceptions of
17 different programs and how they view those.

18 Q. Does PPB give guidance to the
19 PPB investigators about how to weigh
20 certain programs versus others?

21 A. No, I mean I think the
22 investigators, you know, are aware of what
23 programs are DOC sanctioned and which are
24 not and which ones -- and you know, so
25 when -- again, we're getting into some

1 THOMAS BATES (5/31/2024)
2 topics here that I don't know how they --
3 well, I'll just leave it at that, but
4 the -- when inmates are brought in, you
5 know, they're assessed for certain needs.

6 Investigators are going to be
7 looking at -- I mean and board members, but
8 investigators are going to be, again,
9 particularly interested in have they
10 completed programs that address the
11 assessed needs, and they're just going to
12 list those.

13 I mean they're going to say,
14 yes, he completed a -- this person
15 completed a batter's intervention program
16 or an anger management program or completed
17 a GED or substance abuse treatment.

18 They're going to say they were
19 assessed for this and they completed it. I
20 mean that's going to be assessed in the
21 totality of the picture in making the
22 recommendation to the board.

23 Q. On page 5, it asks the inmate
24 to describe what's referred to as a parole
25 plan?

1 THOMAS BATES (5/31/2024)

2 A. Yes.

3 Q. And the first question under
4 parole plan says, "If you are granted
5 parole, where would you live and with
6 whom?"

7 Are inmates -- do inmates need
8 have someone to write down here in order to
9 be considered for parole?

10 A. No.

11 Q. Does PPB offer any guidance as
12 to whether an inmate would be less likely
13 to be granted parole if they did not have
14 someone to live with?

15 MS. BRIGIDA: Object to form.

16 A. So again these are items --
17 these are items of information that are
18 given to the board members to provide them
19 as complete a picture as possible, and all
20 of that information is reviewed and
21 assessed and weighed by the individual
22 board members.

23 So subjects like does someone
24 have to -- does someone have to have I'm
25 going to live here with so and so before

THOMAS BATES (5/31/2024)

they -- before a board member would vote
yes, no. But is that a factor that a board
member is going to want to know about is
can this person be successful upon release?
Do they have a place to stay?

So yeah, I mean that's --
again, I don't want to speak for what --
how board members weigh and evaluate those
factors or evaluate that information, but
that's -- that's the intent of the
information that's put in the report.

Give them a complete picture
and they can take all that information and
assess is this person a good candidate to
be successful on parole.

Q. So the topics in this
questionnaire, version of offenses, tribal
information, substance abuse history,
mental health history, gang affiliation,
programs, parole plan, personal information
including education, military service, and
family background, PPB considers those
topics to be -- to provide a complete
picture for consideration of the inmate for

1 THOMAS BATES (5/31/2024)

2 parole?

3 A. Yes.

4 Q. Does this form contain any
5 place for inmates to discuss or explain any
6 infractions they may have been -- they may
7 have received while incarcerated?

8 A. I don't believe so.

9 Q. Does this form contain a place
10 for inmates to identify their age at the
11 time that they committed the underlying
12 offense?

13 A. Well, I would say that that
14 would -- could be included in their version
15 of the offense, but specifically to talk
16 about age, no, that --

17 Q. There's no -- sorry, go ahead.

18 A. No. That would be a topic that
19 came up in the other information around the
20 case -- around the case, the court file,
21 things like that so.

22 Q. So there's no subject heading
23 in this form regarding age of the
24 individual at the time that they committed
25 the underlying offense?